



**CODE COMPLIANCE
SPECIAL MAGISTRATE HEARING**
Special Magistrate, Jack Bridges
Marathon Council Chambers
9805 Overseas Highway, Marathon
Wednesday, September 18, 2019 at 2:00 P.M.
Action Minutes

A. CALL TO ORDER

The Code Compliance Special Magistrate Hearing of September 18, 2019, was called to Order by the Special Magistrate, Jack Bridges at 2:00 P.M., at the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida.

Staff Present:

Growth Management Director/Building Official Douglas Lewis
Code Compliance Officer Patti Childress
Paralegal/Code Officer Cody Ward
Planning Director George Garrett
Senior Planner Brian Shea

There were no members of the public present.

B. PLEDGE OF ALLEGIANCE - The Pledge of Allegiance was recited.

C. ADDITIONS/DELETIONS/CORRECTIONS/ANNOUNCEMENTS

DELETIONS:

The following cases were withdrawn by compliance:

1. C2018-0441
2. C2016-0101
3. C2016-0102
4. C2012-0505
5. C2012-0504

D. APPROVAL OF AGENDA AND MINUTES

- Special Magistrate Bridges approved the agenda and the minutes of August 21, 2019 hearing.

E. SWEARING IN OF WITNESSES TO TESTIFY

- Special Magistrate Bridges called for witnesses to be sworn in and administered the Oath.

F. NOTICES

- Notices were read into the record.
- There were no Ex-parte Communications.

G. CASES FOR PUBLIC HEARING:

Code Officer, Patti Childress

7. C2019-0088 (NEW CASE)

Joe Seafood Inc
Maria E Veloso, Registered Agent
520 12th St., Marathon, FL (RE# 00101610-000200)

Based on the evidence presented at the hearing, the Respondent has violated §22-24 and §18-28 and §6-52 (a)(1)(b) of the City of Marathon Code, as set forth in the Notice of Violation/Notice of Hearing served upon the Respondent, by having high grass and weeds, a fence in need of repairs, and constructing stairs and a deck without the benefit of a permit.

Code Compliance Officer Patti Childress performed an initial inspection on April 24, 2019 and found the Property to be in violation of §22-24, §18-28 and §6-52 (a)(1)(b) of the City of Marathon Code. Subsequent inspection on August 7, 2019 showed no change to the Property and the violation(s) remains uncorrected.

Exhibits A through D was entered and accepted into evidence by Special Magistrate Bridges.

The Respondent was not present at the hearing, but was properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak. Danny Yero spoke on behalf of the owner.

RECOMMENDATION(S): The Special Magistrate heard the testimony and a Findings of Fact, Conclusion of Law and Order was entered finding the property in violation of the stated code and Ordered the Respondent to mow and maintain the property, remove the damaged fence or apply for and obtain permits to replace the fence, and apply for and obtain permits for the stairs and deck, within thirty (30) days starting from the date of September 19, 2019. Respondent shall pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00) within thirty (30) days, starting from the date of September 19, 2019. In the event the violation(s) is/are not corrected by the date set for compliance, October 19, 2019 Respondent shall pay a fine in the amount of One Hundred Dollars (\$100.00) per day, which shall accrue for each day the violation(s) continues to exist past the compliance date set forth herein. This fine is calculated by taking into consideration: The gravity of the violation; The steps taken by the Respondent to correct the violation; and any previous violations, pursuant to Chapter 162.09 (2) (b) (1) - (3), F.S.

Code Officer, Patti Childress

8. C2019-0110 (NEW CASE)

Robert Plath
113 Coco Plum Drive, Marathon RE: 00366190-000100

Based on the evidence presented at the hearing, the Respondent has violated §6-52 (a)(1)(b) of the City of Marathon Code, as set forth in the Notice of Violation/Notice of Hearing served upon the Respondent, by starting renovations on a downstairs enclosure without the benefit of permits.

Code Compliance Officer Patti Childress performed an initial inspection on June 15, 2019 and found the Property to be in violation of §6-52 (a)(1)(b) of the City of Marathon Code and as a result of such action a Stop Order was posted on the property. Subsequent review of records show no permit application has been submitted and the violation(s) remains uncorrected.

Exhibits A through D was entered and accepted into evidence by Special Magistrate Bridges.

The Respondent was not present at the hearing, but was properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak.

RECOMMENDATION(S): The Special Magistrate heard the testimony and a Findings of Fact, Conclusion of Law and Order was entered finding the property in violation of the stated code and Ordered the Respondent to apply for and obtain permits for renovations to the downstairs enclosure, within thirty (30) days starting from the date of September 19, 2019. Respondent shall pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00) within thirty (30) days, starting from the date of September 19, 2019. In the event the violation(s) is/are not corrected by the date set for compliance, October 19, 2019 Respondent shall pay a fine in the amount of One Hundred Dollars (\$100.00) per day, which shall accrue for each day the violation(s) continues to exist past the compliance date set forth herein. This fine is calculated by taking into consideration: The gravity of the violation; The steps taken by the Respondent to correct the violation; and any previous violations, pursuant to Chapter 162.09 (2) (b) (1) - (3), F.S.

Code Officer, Patti Childress

6. C2018-0447 (NEW CASE)

Michele A and Roger L Hall H/W
2411 Grouper Dr., Marathon, FL (RE# 00331580-000000)

Based on the evidence presented at the hearing, the Respondent has violated §6-52 (a)(1)(b) of the City of Marathon Code, as set forth in the Notice of Violation/Notice of Hearing served upon the Respondent, for construction of a tiki hut without the benefit of a permit.

Code Compliance Officer Patti Childress performed an initial inspection on December 7, 2018 showed the construction of a tiki without the benefit of permits, followed by a review of records and determined that there was no change to the property, no permit applications to relocate the tiki and incomplete variance application with the Planning Department; therefore, the violations has not been corrected.

Exhibits A through E were entered and accepted into evidence by Special Magistrate Bridges.

The Respondent was present at the hearing and sworn-in; was properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak. The Respondent was represented by Attorney Bill Heffernan, who spoke regarding the subject property in terms of the placement of the tiki-hut.

Attorney Heffernan objected to the comments made by Ms. Childress regarding the setback of the tiki-hut.

Objection was overruled by Special Magistrate Bridges.

Attorney Heffernan cross-examined Code Officer Childress, regarding if there was any specific language in the building code related to the construction of a tiki-hut, how many tiki-hut cases has been cited; the permitting of the tiki-hut (“chickee”), knowledge of the Florida Building Code, and the handwritten Bill of Sale from Asteca Tiki Huts to the homeowner regarding the installation of the tiki-hut.

Attorney Heffernan pointed out to Ms. Childress that under Florida Statute 553.73, there’s a presumption which exempts “chickee” huts from a building permit. Ms. Childress is aware of the exemption.

Ms. Childress stated that in order for a tiki hut to be State exempt from a building permit, the tiki hut has to be made by member of the Miccosukee indian tribe, and proper documentation has to be presented to the City for approval.

City of Marathon Paralegal Cody Ward, asked questions to Code Officer Childress pertaining to Section 6-52 (a) (1) b. of the City Code. A portion of the code was read into the record as it relates to the tiki-hut structure; Ms. Childress stated there was no evidence presented by the Respondent that the tiki hut was constructed by the Seminole or Miccosukee Indian tribe or license to built in the State of Florida.

Special Magistrate Bridges stated two parts of the testimony will be considered as part of the record;

- the electrical service attached to the tiki;
- the handwritten note, as there were no evidence by the people who constructed the tiki hut as being part of the Seminole indian tribe.

Attorney Heffernan called the Respondent Roger Hall to testify regarding the electricity on the tiki-hut. Mr. Roger stated the electricity was disconnected from the tiki hut. Mr. Hall assumed that he didn't need a permit to construct the tiki hut, based on the signed handwritten Bill of Sale from Asteca Tiki Huts. Mr. Hall stated moving the tiki hut will be a financial hardship.

Grown Management Director/Building Official Douglas Lewis asked Mr. Hall if he had made any attempt to contact the City to make sure the tiki hut was exempt from a permit. Mr. Hall stated he researched the City Municode and assumed that Asteca Tiki Huts were part of the Seminole indian tribe.

Respondent's Exhibits A through D were entered and accepted into evidence by Special Magistrate Bridges.

Special Magistrate Bridges asked questions of the Respondent Roger Hall.

In closing argument, Attorney Heffernan stated the citation was only strictly given to obtain a permit not relocate the tiki. Furthermore, there's nothing specific in the City code that addresses this issue or it must be revert back to the State of Florida code. Attorney Heffernan stated the law is the law and says, Mr. Hall's tiki is legal and allowed to be on that property as it stands right now.

RECOMMENDATION(S): The Special Magistrate having heard the testimony, moved to continue the case to October 16, 2019 hearing date and time certain.

H. OLD BUSINESS - None

I. NEW BUSINESS - None

J. DISCUSSION ITEMS - None

K. ADJOURNMENT - With no further business to come before the Special Magistrate, the meeting was adjourned 3:08 P.M.

The above represents a summary of the Code Compliance Hearing held September 18, 2019. This is not a verbatim record. A recorded disc is available upon request.

These minutes were reviewed and approved by Jack Bridges, Special Magistrate.



Jack Bridges, Special Magistrate

10/22/19

Date